

KBN Investigation and Discipline Process Applicable to LCPMs

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I. Forms of Wrongdoing

1. Fraud, misrepresentation, concealment of material facts (including licensure application responses)
2. Unprofessional conduct
3. Felony
4. Misdemeanor related to scope of practice or fitness for duty
5. Actions in excess of scope of practice
6. Licensure discipline by another licensing authority
7. Unfit/incompetent/unable to practice midwifery with reasonable skill and safety
8. Misused or appropriated drugs placed in custody of midwife for use of others
9. Incorrect entries or lack of essential entries on essential records
10. Nurse Aide Abuse Registry
11. Violation of patient confidentiality
12. Violation of KBN regulation or lawful KBN order
13. Failure to report known facts related to LCPM violation of KBN regulations

II. Investigative Phase

1. Three types of investigative case (monitoring, pre-complaint, complaint)
2. Pre-complaint investigation: subpoenas, Courtney, Ky. disciplinary history, KASPER (if relevant)
3. Possible outcomes arising from Investigation Branch Supervisor's review of pre-complaint
4. Notice of Complaint
5. 30 day deadline for written, verified response [201 KAR 20:161 §1(4)(b)]
6. Exception applicable to self-report cases
7. Evaluation orders (medical/physical, mental health, substance use disorder, etc.)
8. No motion practice in pre-PC matters discovery (other than KRS 61.870-884)
9. Immediate temporary suspension orders (public protection, evaluation, KHEAA, etc.)
10. Assignment to investigator
11. Investigative meeting
12. CRP review
13. File away, Letter of Concern, Facility Letter of Concern, Family Letter
14. Types of agreed upon disposition: Consent decree v. Agreed Order; AO categories: Reprimand, Reprimand w/ UDS, Limitation/Probation, Suspension w/o hearing to reinstate, Suspension w/ hearing to reinstate, Revocation (retake NCLEX), Permanent revocation
15. Settlement negotiation
16. Rejection of proposed agreed upon disposition = referral to Legal Services Section
17. Custom processes for conviction/disciplinary action review and HB1 cases (120 day letter)
18. Compliance Branch investigations, noncompliance notices, and referral to Branch Mgr
19. Compliance Branch notice of intent to suspend
20. Reinstatement process
21. "Cease and Desist" notices issued to unlicensed birth attendants

III. Litigation Phase

1. Notice of Charges and Notice of Intent to Request Hearing
2. Answer due in 20 days from receipt of Notice of Charges – Motion for Default
3. Telephonic prehearing conference
4. Prehearing deadlines
5. Depositions and discovery
6. Hearing date

7. Witness list and exchange of exhibits
8. Prehearing motions (if any)
9. Conduct of hearing
10. Recommended Order
11. Exceptions (due within 15 days)
12. Full Board review and issuance of Final Order (Decision)
13. Recusal and *ex parte* communication

IV. Appeal Phase

1. Due (due within 30 days)
2. Submission of indexed administrative record
3. Answer (due within 20 days of receipt of Petition for Judicial Review)
4. Motion for Briefing Schedule
5. Briefing
6. Oral argument
7. Possible outcomes
8. Stays & Remand
9. Further appellate review